

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

In re: Darrell F. Tyree.

Janlyn S. Tyree

Case No. 10-62922-WA1-13

Chapter 13

Debtor(s)

ORDER

This matter came upon the confirmation hearing on debtor(s)' proposed Chapter 13 plan and any objections thereto, and the trustee's motion to dismiss or convert. It appearing to the court that the debtor(s)' plan is not ready for confirmation, it is hereby **ORDERED**:

1. X The hearings on the confirmation of debtor(s)' proposed Chapter 13 plan and any objections thereto and the trustee's motion to dismiss are:
 X (a) **CONTINUED** to May 26, 2011 at 9:30 a.m. WITH CONDITIONS
 (b) **CONTINUED** to the same date and time as any hearing on the modified plan to be filed as required in paragraph 6 below.
2. X This continuance is conditioned upon the debtor(s) keeping their plan payments current. Failure to do so results in dismissal on the continued hearing date or automatic dismissal without further notice or hearing twenty-one (21) days after the trustee's certification unless the debtor files a timely response to the certification.
3. The debtor(s) shall have until _____ to bring plan payments current, otherwise, the case will be dismissed at the continued hearing date or will be automatically dismissed twenty-one (21) days after the trustee's certification that plan payments are delinquent unless the debtor(s) timely file a response to the certification.
4. X The hearing on confirmation, and any objections thereto, and the trustee's motion to dismiss/convert are continued to May 26, 2011 at 9:30 a.m. at which time all the conditions marked with an "X" on the attached Exhibit A must have been accomplished or the debtor(s) shall appear at that time and show cause why the case should not be dismissed.
5. Confirmation of the debtor(s)' existing Chapter 13 plan is **DENIED**.
6. Debtor(s) shall have until _____ to file a modified plan. Upon failure to do so, or to request an extension of time prior to the due date for the


modified plan, this case shall be dismissed without further notice or hearing, unless on or before the due date for the modified plan counsel files a certification that there is no need to file a modified plan.

Should a modified plan be timely filed, counsel shall serve it in accord with existing procedures and orders of this court; provided however, that no service shall be required as to any class of creditors not adversely affected by the amended plan, as certified in writing by counsel for the debtor(s) and endorsed as agreed by the trustee, which certification shall be filed with the Clerk no later than the date by which service of the modified plan is required to be made. In all cases of plan modification, service shall be made upon any creditor who has any pending objection to confirmation or a specific request for notice.

7. _____ Counsel for the debtor(s) shall submit a wage deduction order to the court no later than _____ or the debtor(s) shall appear at the continued hearing date to show cause why no wage deduction order should be entered.
8. _____ Should the trustee be prepared to recommend confirmation, she/he may submit a confirmation order for entry prior to the continued hearing provided there is no pending objection by a creditor to confirmation.
9. _____ Other provisions: _____.

Debtor(s)' counsel shall serve a copy of this order upon the Chapter 13 trustee and all creditors or their counsel who have filed objections, a motion to dismiss or convert, or an unresolved motion for relief from the automatic stay.

Entered: May 17, 2011



A handwritten signature in black ink, appearing to read "William E. Oulton", is written over a horizontal line.

U. S. Bankruptcy Judge

We consent:

/s/ Herbert Beskins
Herbert Beskins
Chapter 13 Trustee

/s/ Richard J Oulton
Richard J. Oulton, Counsel for Debtor(s)
111 Highland Avenue
Colonial Heights, VA 23834
(804) 520-2428

EXHIBIT A TO ORDER OF CONTINUANCE

- X 1. Debtor(s) are to make regular & timely plan payments & be current in *amended* plan payments as of the adjourned hearing date.

(All of the following items which are marked with an "X" are to be accomplished by the Debtor(s) or received by the Trustee at least ten (10) calendar days prior to the adjourned hearing date unless otherwise noted below or otherwise noted on Exhibit A of the Initial (or Supplemental) Trustee's Report and Objections Following Meeting of Creditors and Notice to Dismiss or Convert Case ["the Trustee's Report"])

- ___ 2. The following documents are to be provided to the Trustee: ☐ HUD-1
☐ 2 mos. recent paystubs from new job ☐ Amended: ☐ Sch. I ☐ Sch. J
☐ To support increases in Sch. J expenses ☐ To justify decrease in plan payments
☐ To justify decrease in base gross

- ___ 3. The following amendments to the Plan are to be made: ☐ Cure default in plan payments
☐ Resolve Trustee's disposable income objection ☐ Make plan 100% payout to unsec creditors
☐ Provide for secured creditor(s): _____
☐ Provide for priority creditor(s): _____
☐ Cure arrears on secured creditor(s): _____
☐ Increase plan payments: _____
☐ Provide adequate protection payments for secured creditor(s): _____
☐ Provide special notice for secured creditor(s): _____
☐ Change language in para. # _____ re: _____
☐ _____

- X 4. Any amended plan is to be properly filed and noticed so that it can be heard on the adjourned hearing date.

- ___ 5. The following motions are to be properly filed and noticed so that they can be heard on the adjourned hearing date:

- ☐ To extend/impose automatic stay ☐ For additional attorneys fees
☐ To allow direct plan payments by debtor(s) ☐ For adequate protection payments
☐ To avoid lien(s): _____
☐ To object to claim(s): _____

- ___ 6. The following objections or matters are to be resolved prior to the adjourned hearing date or Counsel is to be prepared to argue them on that date, and the Trustee is to be notified as to the status of these matters at least five calendar days prior to that date:

- ☐ Motion(s) to lift stay ☐ Objection(s) to confirmation
☐ Trustee's disposable income objection ☐ Lien avoidance motion(s)
☐ Objection to claim(s)

- ___ 7. All items set forth on Exhibit A to the Trustee's Report to be completed and received by the Trustee.

- X 8. Other:

- X Wage Deduction order to be entered & working ☐ "Drop dead" order to be entered
☐ Certifications by atty. for atty. fees for motion to lift stay ☐ Pre-confirmation affidavit to be filed
X Amend Wage Deduction Order to match modified Plan ☐ Trustee retains disposable income obj.
☐ Debtor to arrange automatic monthly payment for mortgage / vehicle ☐ Debtor(s) not eligible for discharge
☐ Update on income/employment of _____
☐ Trustee's motion to dismiss to be resolved by entry of order increasing plan payments over remainder of plan
☐ Plan must pay 100% to unsecured creditors b/c of: ☐ Chapter 7 test ☐ Disposable income test
☐ Trustee will object to any future modified plan that decreases "pot" to unsecured creditors

☐ Debtor(s) to be current in plan payments, case to be converted to Chap. 7, or case to be dismissed